

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ELLIJAH SAM,

Plaintiff,

v.

RENTON SCHOOL DISTRICT,

Defendant.

Case No. C21-1363RSM

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL AND
GRANTING SERVICE BY U.S.
MARSHAL

This matter comes before the Court on Plaintiff Elijah Sam's Motion to Appoint Counsel, Dkt. #10, and Motion requesting service by the Court, Dkt. #6. Defendant Renton School District has not yet been served or otherwise appeared in this case. Mr. Sam is currently proceeding *pro se* and *in forma pauperis*. See Dkt. #3.

In civil cases, the appointment of counsel to a *pro se* litigant "is a privilege and not a right." *United States ex. Rel. Gardner v. Madden*, 352 F.2d 792, 793 (9th Cir. 1965) (citation omitted). "Appointment of counsel should be allowed only in exceptional cases." *Id.* (citing *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963)). A court must consider together "both the likelihood of success on the merits and the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal issues involved." *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983). In "exceptional circumstances," a district court may appoint counsel for

1 indigent civil litigants. 28 U.S.C. § 1915(e)(1); *Rand v. Rowland*, 113 F.3d 1520, 1525 (9th
2 Cir. 1997), *overruled on other grounds*, 154 F.3d 952 (9th Cir. 1998).

3 Mr. Sam has adequately presented his claims with detailed factual allegations connected
4 to legal arguments. *See* Dkt. #4 (Sealed Complaint); Dkt. #8 (redacted Complaint). The
5 Complaint clearly demonstrates a capacity to proceed in this case *pro se*. The Court cannot
6 conclude on this thin record whether these claims have a strong likelihood of success on the
7 merits. Mr. Sam has presented some evidence of searching for counsel but has not
8 demonstrated that a continued search is futile. He has otherwise failed to set forth exceptional
9 circumstances. Given all of the above, the Court will deny this Motion at this time.
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11 Turning to Mr. Sam's request for the Court to serve Defendant, Federal Rule of Civil
12 Procedure 4(c)(3) provides:
13

14 At the plaintiff's request, the court may order that service be made
15 by a United States marshal or deputy marshal or by a person
16 specially appointed by the court. The court must so order if the
17 plaintiff is authorized to proceed in forma pauperis under 28
U.S.C. § 1915 or as a seaman under 28 U.S.C. § 1916.

18 The Rule allows the Court to order service by the Marshal when requested, and
19 mandates it for *in forma pauperis* prisoner plaintiffs proceeding under 28 U.S.C. § 1915.
20 Although Plaintiff was granted leave to proceed *in forma pauperis*, he is not a prisoner.
21 However, the Court recognizes that Plaintiff has limited means and the Court should assist in
22 the service of this matter. Plaintiff has provided sufficient information to effect service of the
23 Summons and Complaint. He has listed Jennifer Traufler as agent for Renton School District at
24 300 SW 7th Street, Renton, WA 98037.
25

26 Having considered the briefing and the remainder of the record, the Court hereby
27 FINDS and ORDERS:
28

- 1) Plaintiff's Motion to Appoint Counsel, Dkt. #10, is DENIED.
- 2) Plaintiff's Motion for service by U.S. Marshal, Dkt. #6, is GRANTED. The United States Marshal shall send the following to each named Defendant by first class mail: a copy of the Sealed Complaint (Dkt. #4) and of this Order, a copy of the appropriate Summons, two copies of the Notice of Lawsuit and Request for Waiver of Service of Summons, a Waiver of Service of Summons, and a return envelope, postage prepaid, addressed to the Clerk's Office. All costs of service shall be advanced by the United States. The Clerk SHALL assemble the necessary documents to effect service.
- 3) The Clerk shall mail a copy of this Order to Plaintiff via U.S. Mail.

DATED this 25th day of October, 2021.



RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT JUDGE